

1 MARSHA S. MCLAUGHLIN, * BEFORE THE
2 DIRECTOR, DEPARTMENT OF * PLANNING BOARD OF
3 PLANNING AND ZONING, * HOWARD COUNTY, MARYLAND
4 PETITIONER * ZRA 90

5 * * * * *

6 MOTION: *To recommend approval of ZRA 90, with amendments deleting the HO*
7 *District, the HC District, the CC District, the M-1 District, the M-2 District,*
8 *the PGCC District and TNC Overlay District as districts where Housing*
9 *Commission Housing Developments would be a use permitted by right,*
10 *increasing the minimum development acreage and adding a height*
11 *requirement; and, to remove the preference for moderate income housing*
12 *units from the zoning regulations and to clarify the calculation of dwelling*
13 *units in assisted living facilities.*

14 ACTION: *Motion passed; Vote 2 to 1.*

15 * * * * *

16 On August 9 and August 23, 2007, the Planning Board of Howard County, Maryland, considered the
17 petition of Marsha S. McLaughlin, Director, Department of Planning and Zoning to amend Section 103.A. of
18 the Zoning Regulations to add a new definition for the term "Housing Commission Housing Development";
19 to amend certain commercial and industrial districts to allow Housing Commission Housing Developments as
20 a use permitted as a matter of right; to amend the Section 128 Supplementary Zoning District Regulations to
21 add a new Section 128.K. concerning the criteria for Housing Commission Housing Developments; to amend
22 Section 127.C, Section 127.5.E, and Section 127.6.F. to delete the requirement of making moderate income
23 housing units first available to certain qualifying persons prior to the general public; and, to amend Section
24 127.1.E. to make a clarification concerning assisted living and nursing home beds in relation to the Moderate
25 Income Housing Unit requirement.

26 The Petitioner was present, and also present for the Petitioner were Steve Lafferty and Kimberley
27 Flowers of the Department of Planning and Zoning, Stacy Spann, the Director of the Department of Housing
28 and Community Development ("DHCD"), and Tom Carbo, the Deputy Director of DHCD. There was
29 considerable testimony both in support of and in opposition to the petition.

30 The petition was revised by the petitioner from its original format to eliminate several of the districts
31 for which the use category for Housing Commission Housing Developments had been proposed as a
32 permitted use, and to revise the wording in the new Section 128.K.1.b. to clarify the size of the development
33 parcel where such developments could occur. The amended petition, the Department of Planning and Zoning

1 Technical Staff Report and Recommendation, and the comments of reviewing agencies, were presented to the
2 Board for its consideration at the meeting on August 9. The Department of Planning and Zoning
3 recommended approval of the revised petition.

4 Mr. Spann indicated that this amendment will be used in a very limited way. He stated that the
5 principal purposes of the proposed amendments are to allow the Housing Commission to construct housing on
6 commercial land that it wholly owns or in partnership for housing projects that use low income housing tax
7 credits awarded by the State of Maryland for financing. The Commission would maintain control over the
8 project in such a partnership. The amendment would also establish bulk standards to ensure that housing
9 projects blend appropriately with the surrounding neighborhoods and meet the needs of the residents. Mr.
10 Lafferty noted the Commission is authorized by the Housing Code to construct housing that it wholly owns in
11 commercial districts. This amendment would establish this authority in the Zoning Regulations. The
12 Department of Housing and Community Development intends to remove the provision from its Housing Code
13 in a separate piece of legislation that would be sent to the Council. He explained that project density will be
14 dictated by the property size rather than a set maximum density. Mr. Lafferty stated that the use regulations
15 and bulk requirements for Housing Commission Housing Developments properly belong in the Zoning
16 Regulations as proposed, but he emphasized that the actual development issues of any Housing Commission
17 development project will be largely governed by the Subdivision and Land Development Regulations.

18 Mr. Lafferty also indicated that provisions in the Zoning Regulations that indicate the preference
19 given to public employees for the Moderate Income Housing Unit ("MIHU") are proposed to be deleted from
20 the Zoning Regulations but will be placed in the Housing Code. This would clarify that the administration of
21 the MIHU program rests with DHCD. The final provision of this ZRA, clarifies that there is no obligation to
22 provide MIHUs in assisted living facilities and that the bed calculation only pertains to dwelling units and not
23 to determining how many MIHUs are required.

24 Harriet Bachman of the Interfaith Coalition for Affordable Housing stated that she supports ZRA-90
25 because it would help create more affordable housing. Robert Buckmeier also supported ZRA-90, but noted
26 that the issue of affordable housing needs to be addressed in a more comprehensive manner as part of the next
27 Comprehensive Zoning Plan. Tim Sosinski stated that ZRA-90 should go forward because it is beneficial to
28 open up more areas of the County for affordable housing in order to foster a wider spectrum of housing
29 options and to bring such housing much closer to employment areas. Carol MacPhee agreed with Mr.
30 Sosinski.

31 Grace Kubofcik stated that the League of Women Voters opposes ZRA-90 because it proposes a far
32 too wide scope that undermines the proper balance between residential and commercial areas as set by the
33 General Plan, and because it does not provide any public process for evaluating the housing developments.
34 She recommended that the housing developments be subject to Conditional Use approval so that there is a

1 public process and that heights and setbacks could be addressed. Bridget Mugane agreed, and added that the
2 type of changes proposed need to be part of a more comprehensive package, with adequate time to study and
3 give public comment prior to proceeding. Stephen Meskin objected to the lack of any maximum density
4 requirements and was concerned that such development would create concentrations of affordable units rather
5 than integrating them into communities. He also requested that these developments be subjected to design
6 review. Janice Bloodworth emphasized the need to maintain a good balance between residential uses and
7 commercial uses as put forth in the General Plan. John Lederer stated that some of the proposed zoning
8 districts are inappropriate, and he expressed concern that the ZRA-90 is being rushed. Patrick Crowe
9 commented that much of ZRA-90 actually is contrary to General Plan policies by attempting to use
10 commercial land for residential purposes, and he stressed that the principal reason for commercial districts is
11 for employment uses. Also speaking in opposition to ZRA-90 were Greg Thorsen and Keith Kelley.

12 Following the testimony, Mr. Spann and Mr. Lafferty addressed many of the issues presented,
13 including the likely size and heights of any developments, public involvement and participation, how these
14 amendments are a part of an overall plan being developed and that DHCD is volunteering to have the bulk
15 regulations imposed. Board members identified zones that should not have been included in the legislation
16 because the zone already permits residences, questioned the appropriateness of placing a housing
17 development in M1 or M2 due to the potential impact on resident quality of life. The Board also expressed
18 concerns about how the proposed zoning changes related to the housing code; how the tax credit approval
19 process worked and the urgency of going forward with the case at this time.

20 Mr. Rosenbaum recommended delaying the decision in this case until there was an opportunity for
21 the Technical Staff Report and proposed ZRA to be revised to reflect the Administration's proposed changes
22 and to respond to the issues raised by the Board to the petition. Ms. Dombrowski requested that further
23 information be provided to show the relationship between the zoning regulations and other applicable
24 regulations. Mr. Rosenbaum made a motion recommending that the petition be returned to the Department of
25 Planning and Zoning for revisions, and the case be rescheduled for the Planning Board's consideration on
26 August 23, 2007 with the public record to remain open until the close of business on August 17, 2007. Ms.
27 Dombrowski seconded the motion. The motion passed by a vote of 3 to 0.

28 At the Board's request, DHCD and DPZ submitted a supplemental memorandum with attachments to
29 describe the tax credit process, criteria used by the state in evaluating applications and possible build out
30 scenarios using the height and setback requirements. This information included additional proposed
31 revisions: a description of the business and industrial zoning districts that would be deleted and the reasons
32 for exclusion; an amendment to change the minimum development lot size from 2 acres to 3 acres; setting a
33 height limit on buildings adjacent to residential districts; and, clarifications of the relationship between the
34 Zoning Regulations and Housing Code. The memorandum also made it clear that all Commission projects

1 must comply with the Subdivision and Land Development Regulations; that there are clear public processes
2 that the Commission will follow; and, that DHCD's voluntary agrees to participate in the Design Advisory
3 Panel process and to hold their pre-submission community meeting prior to applying for tax credits from the
4 State.

5 Additional comments were also received from citizens regarding the proposal, including a request to
6 delay the Board's decision until further public comment could be received.

7 At the work session on August 23, 2007, Mr. Lafferty explained the proposed changes to Exhibit A
8 using a redlined version. He, Ms. McLaughlin and Mr. Spann then responded to questions about the changes,
9 the impact on commercial and industrial lands, the use of tax credits and whether such a development would
10 be isolated and not integrated into communities. Board members raised a number of concerns that they
11 recommend the County Council examine when considering the legislation:

- 12 • Introduce the companion Housing Code amendments at the same time as ZRA 90 legislation so they
13 and the public can consider all components as an entire affordable housing package
- 14 • Clarify that any variances being sought for a Housing Commission Housing Development would be
15 obtained from the County Council and would allow for public comment
- 16 • Examine how to address setbacks on existing, new or redevelopment of adjacent commercial parcels
17 since setbacks for commercial properties from each other in commercial districts are smaller than
18 setbacks from residential districts. If the underlying zoning remains unchanged, setbacks would not
19 reflect the residential use in a Housing Commission Housing Development. Such a scenario also
20 presents a potential problem of constraining an adjacent commercial property owner if they have to
21 abide by residential setbacks instead of commercial.
- 22 • Consider including the NT (New Town) zoning district so that Commission developments will be
23 distributed in all areas east of the Planned Service Area,
- 24 • Obtain from DPZ an accounting of the number of parcels and locations thereof that would be eligible
25 for a HCD, and
- 26 • Consider limiting the number of commercial acres that can be used for residential construction since
27 there is a concern about creating an imbalance and losing commercially zoned land that is not spoken
28 to in the General Plan

29 Board members found that removing the Housing Code provision, which allows the Commission to
30 construct residential units in limited commercial zones, and placing such a permitted use into the Zoning
31 Regulations, is appropriate because it deals with land use issues. Allowing such residential development in
32 commercial zones does support the General Plan goal of creating more affordable housing. It was agreed that
33 with the competition for land and limited funds available to the Commission, the number of parcels of
34 existing commercial land used for this purpose will not likely be significant. The Board's suggestion that

1 deleting M1 and M2 zones from the ZRA , as proposed by the Administration's revised amendment, will add
2 limits on the placement of Commission housing and that the State of Maryland's regulations and criteria for
3 approving a tax credit project will provide additional safeguards for future residents. The Board also agrees
4 that enacting bulk standards when none before existed provide adequate minimum parcel size, open space,
5 buffers, and set backs for such a development does protect surrounding areas. However, as stated above, the
6 Board notes that the issue of commercial to commercial district setbacks be thoroughly reviewed and
7 reconciled when a residential use is placed in a commercial zone due to the impact on residents and
8 commercial property owners. DHCD's voluntary agreement to hold an early community meeting prior to
9 applying for tax credits and to submit to the Design Advisory Panel review add further important safeguards
10 and opportunity for public comment.

11 The Board feels that the added language regarding assisted living units will clarify the intent of that
12 regulation and that by removing the public employee preference for moderate income housing units from the
13 zoning regulations and placing it in the Housing Code is an appropriate administrative change.

14 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 23rd day of
15 August, 2007, recommends that ZRA-90, as described above and specified in the attached red-line document,
16 be APPROVED.

17
18 HOWARD COUNTY PLANNING BOARD

19 RECUSED

20 Tammy J. CitaraManis, Chairman

21 David Grabowski /sk
22 David Grabowski, Vice-Chair

23 Linda A. Dombrowski
24 Linda A. Dombrowski

25 MR
26 Gary Rosenbaum

27 ABSENT/NOT PARTICIPATING

28 Ramsey Alexander

29
30 ATTEST:

31 Marsha S. McLaughlin
32 Marsha S. McLaughlin, Executive Secretary